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DEPARTMENT OF DEFENSE

Defense Acquisitions Regulations System

48 CFR Parts 225 and 252

RIN 0750-AI17

**Defense Federal Acquisition Regulation Supplement; Trade
Agreements Thresholds (DFARS Case 2013-D032)**

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate increased thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative.

DATES: Effective: January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Annette Gray, (703) 602-6093.

SUPPLEMENTARY INFORMATION:

I. Background

Every two years, the trade agreements thresholds are escalated according to a pre-determined formula set forth in

the agreements. The United States Trade Representative has specified the following new thresholds in the Federal Register (78 FR 76700, December 18, 2013):

Trade Agreement	Supply Contract (equal to or exceeding)	
		Construction Contract (equal to or exceeding)
WTO GPA	204,000	7,864,000
FTAs		
Australia FTA	79,507	7,864,000
Bahrain FTA	204,000	10,335,931
CAFTA-DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	79,507	7,864,000
Chile FTA	79,507	7,864,000
Colombia FTA	79,507	7,864,000
Korea FTA	100,000	7,864,000
Morocco FTA	204,000	7,864,000
NAFTA		
–Canada	25,000	10,335,931
–Mexico	79,507	10,335,931

Panama FTA	204,000	7,864,000
Peru FTA	204,000	7,864,000
Singapore FTA	79,507	7,864,000

II. Publication of this final rule for public comment is not required by statute.

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it implements the new thresholds in the clause prescriptions at DFARS 225.1101, 225.7017-3, 225.7503 and in the clauses at 252.225-7017 and 252.225-7018. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 and does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and CFR chapter 1.

PART 225—FOREIGN CONTRACTING

225.1101 [Amended]

2. Section 225.1101 is amended—

- a. In paragraph (10)(i) introductory text, by removing "\$202,000" and adding "\$204,000" in its place; and
- b. In paragraphs (10)(i)(A), (10)(i)(B), and (10)(i)(C), by removing "\$77,494" and adding "\$79,507" in its place.

3. Section 225.7017-3 is amended in paragraphs (b) and (c)(2), by removing "\$202,000" and adding "\$204,000" in its place.

4. Section 225.7503 is amended—

- a. In paragraphs (a)(1) and (b)(1), by removing "\$7,777,000" and adding "\$7,864,000" in its place;
- b. In paragraph (b)(2), by removing "\$7,777,000" and adding "\$7,864,000" in its place, and by removing "\$10,074,262" and adding "\$10,335,931" in its place.
- c. In paragraph (b)(3) by removing "\$10,074,262" and adding "\$10,335,931" in its place; and

d. In paragraph (b)(4) by removing "\$7,777,000" and adding "\$7,864,000" in its place, and by removing "\$10,074,262" and adding "\$10,335,931" in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225-7017 [Amended]

5. Section 252.225-7017 is amended—

a. By removing clause date "(DEC 2013)" and adding "(JAN 2014)" in its place.

b. In paragraphs (c)(2) and (c)(3), by removing "\$77,494" and adding "\$79,507" in its place; and

c. In paragraphs (c)(4) and (c)(5), by removing "\$202,000" and adding "\$204,000" in its place.

252.225-7018 [Amended]

6. Section 252.225-7018 is amended—

a. By removing clause date "(DEC 2013)" and adding "(JAN 2014)" in its place.

b. In paragraphs (b)(1) and (b)(2), by removing "\$202,000" and adding "\$204,000" in its place;

c. In paragraphs (d)(3) and (d)(4) introductory text, by removing "\$77,494" and adding "\$79,507" in its place; and

d. In paragraphs (d)(5) and (d)(6) introductory text, by removing "\$202,000" and adding "\$204,000" in its place.

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